

CHAPTER 11  
MUNICIPAL PLANNING  
Article 2. Zoning Regulations

Regulations must be complied with.

Municipal Review: The planning commission and governing body shall be notified by the Crete City Manager or his/her designee of any application for a Special Exception Use Permit within the respective wellhead protection area.

*(Ord. No. 2026, 11/7/17)*

**§11-225 Reserved for future use.**

**§11-226 ADMINISTRATION AND ENFORCEMENT.** The City Building Inspector shall administer and enforce this Article. He/she may be provided with the assistance of such other persons as the City Council may direct.

If the City Building Inspector shall find any of the provisions of this Article are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Article to insure compliance with or to prevent violation of its provisions.

**§11-227 BUILDING PERMITS.** *(Repealed by Ord. 1523; 07/03/01)*  
*(See 9-201 through 9-206)*

**§11-228 CERTIFICATES OF ZONING COMPLIANCE.** It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, until a certificate of zoning compliance shall have been issued therefore by the Building Inspector, stating that the proposed use of the building or land conforms to the requirements of this Article.

**§11-229 CONSTRUCTION AND USE AS PER APPLICATIONS, PLANS, PERMITS AND CERTIFICATES.** Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Building Inspector, authorize only the use, arrangement and constructions set forth in such approved plans and applications, and no other use, arrangement, or construction, use, arrangement or construction at variance with that authorized shall be deemed

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violation of this Article, punishable as provided by Section 11-210.

**§11-230 SPECIAL EXCEPTIONS.** The City Council shall hear and decide only such special exceptions as are provided for by the terms of this Article; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Article, or to deny special exceptions when not in harmony with the purpose and intent of this Article. A special exception shall not be granted by the City Council unless and until:

A. A written application for a special exception is submitted indicating the section of this Article under which the special exception is sought and stating the grounds on which it is requested;

B. Notice shall be given at least ten (10) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special exception is sought, at the City Hall, and in one (1) other public place at least ten (10) days prior to the public hearing;

C. The public hearing shall be held. Any party may appear in person or by agent or attorney;

D. The City Council shall make a finding that it is empowered under the section of this Article described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;

E. Before any special exception shall issue, the City Council shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and in case of fire or catastrophe;
2. Off-street parking and loading areas where required, with

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particular attention to the items in 1 above and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district;

3. Refuse and service areas, with particular reference to the items in 1 above;

4. Utilities, with reference to locations, availability and compatibility;

5. Screening and buffering with reference to type, dimensions and character;

6. Sign, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

7. Required yards and other open space;

8. General compatibility with adjacent properties and other property in the district.

9. Composting. The following is a listing of additional items that will need to be submitted to the City as part of the submittal, or submittals as conditions of approval for Special Exceptions for a composting facility. The Binding Agreement / Enforcement (as outlined in Section 4.) will need to be in place prior to the start of operations of the facility.

A. Odor Generation

i. Inventory - Odor Constituents of Concern

a) Quantify compost facility individual VOC constituents that have the potential to result from composting as a maximum potential pound-per-hour emission rate without odor emission control. Provide emission factor source(s), supporting calculations and assumptions used to quantify odor emissions.

b) Quantify compost facility individual hazardous air pollutant (HAP) emissions as a maximum potential pound-per-hour emission rate without odor emission control. Provide supporting calculations, emission factor sources, and assumptions used to quantify the odor emissions.

c) Quantify compost facility emission for ammonia and hydrogen sulfide as a maximum potential pound-per-hour emission rate without odor emission control. Provide supporting calculations, emission factor sources, and assumptions used to quantify the odor

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emissions.

- d) Quantify fugitive emissions that are not routed through a stack or vent for the odor constituents of concern.

ii. Summarize the odor emission inventory for the proposed compost process including maximum potential hourly emission rate for odor constituents of concern, and characteristics for the exhaust points (stack, vent, or other) including height above ground level, diameter, exit velocity, exit temperature, and orientation. For fugitive emission sources, provide the anticipated minimum release height, width and length.

iii. Provide a proposed facility layout identifying the location of potential sources of odor emissions and proposed compost processes. The layout should include a scale and north direction. For each proposed building, identify the anticipated building width, length, and height above ground level for modeling purposes.

iv. Levels at property lines and in ambient air (where the general public has access to)

- a) Complete an ambient odor quality dispersion modeling analysis, using the recommended air dispersion modeling approach in Section vi. below with and without anticipated odor emission control strategies and/or emission reduction technologies, to plot the following odor annoyance free isopleths for each odor constituent of concern to odor annoyance free zones of 99%, 98%, 97%, 96%, and 95%.
- b) Indicate the basis for the odor threshold used to determine the odor annoyance free isopleths as either an odor recognition threshold or as an odor detection threshold and the source of the value.
- c) Five years of Lincoln, Nebraska surface and Omaha, Nebraska upper air data are generally recommended as a representative weather dataset for use in EPA's American Meteorological Society / Environmental Protection Agency Regulatory Model (AERMOD) or other approved software
- d) A uniform cartesian receptor grid using 50-meter spacing is recommended. The center of the receptor grid should be located at the center of the facility's odor emission sources.
- e) Base elevations for the odor emission sources,

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receptors, and buildings shall be calculated using AERMAP, the terrain processor for AERMOD.

- f) A recommended odor dispersion modeling approach is generally described as follows:
  - 1. Model each odor emission source at its maximum potential pound-per-hour uncontrolled odor emission rate for each odor constituent of concern using AERMOD
  - 2. In a separate model run, model each odor emission source should be modeled at its maximum potential pound-per-hour controlled odor emission rate for each odor constituent of concern, using AERMOD
  - 3. Setup each model run to find each instance of a concentration that equals, or exceeds, the odor threshold identified in Paragraph 2.d.ii.
  - 4. Post-process each model run output using a program that calculates the percentage of time in the year the modeled pollutant would not exceed the odor threshold (odor annoyance free percentages) accounting for hours described as missing by AERMOD - missing hours not included in modeled total hours
  - 5. Plot the odor annoyance free percentages and overlay the plots on aerial maps to identify the location of the 99%, 98%, 97%, 96%, and 95% odor annoyance free isopleths in comparison with nearby residences and the City of Crete.
  - 6. For each odor annoyance free level (99%, 98%, etc.) identify the distance from the facility center-point to the most distant occurrence of the odor annoyance free level.
  
- B. Anticipated traffic (or additional traffic) generated to and from site in vehicle counts to supplement traffic flow information provided in Special Exception 11-230 E.1.
  
- C. Composting facility shall comply with the requirements of the Nebraska Department of Environmental Quality (NDEQ), state and federal regulations.
  - i. Owner or operator shall provide the City a copy of the NDEQ Title 132 permit application for operation of a solid waste compost site at the time of submittal to the NDEQ. Title 132 permit applications to NDEQ include addressing locational criteria, describing facility design and

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construction quality assurance plan, an operational plan, a closure plan and financial assurance requirements, recordkeeping requirements and required maps.

ii.If a composting facility is exempt or partially exempt from NDEQ Title 132 requirements, the City will require a draft operational plan from the owner or operator that addresses facility size, general types and quantities of feedstocks, methods of compost operation, and control procedures (i.e. for pest control, litter control, dust control, protection of groundwater and surface waters, and contingency plan) such that facility will not constitute a hazard or threat to human health or the environment.

D. Binding Agreement / Enforcement

i. The City will require a separate binding agreement for the site to address long term operational and compliance issues. This agreement will be required to be executed prior to the start of operation of the facility.

ii.All items associated with the binding agreement are to be submitted and reviewed by the City.

iii.The binding agreement will need to include the following as a minimum:

a) Odor Management Plan that includes the following:

1. Describe, in general, the planned compost facility design and features with specific attention to odor prevention and control.

2. Prepare a site-specific draft Odor Management/Prevention Plan. The plan must include information on how facility operators will prevent and/or reduce odors from migrating beyond the property boundaries, including the following components.

a. Facility name, location and contact information.

b. Describe compost facility design and features with specific attention to odor prevention/ retention (e.g., mixer equipment, aeration system, sensors and controls, biofilters, pile coverage, etc.).

c. Describe compost facility operational features to be utilized in the prevention and control of odors.

i. General description of types of feedstocks and delivery schedule.

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ii. Maximum time new materials, especially potential odorous feedstocks, are allowed to stockpile in receiving area before being blended with other feedstocks.

iii. Active compost pile management procedures (e.g., maintaining C:N ratio, temperature, moisture, porosity, air circulation). Use Best Management Practices at composting facility to maintain aerobic conditions.

iv. Description of operational contingencies, mitigation plans and/or back-up systems on foreseeable events (e.g., equipment breakdown, power failure, wet weather conditions, light or calm wind conditions, sensors high/low alarms, etc.).

v. Personnel training.

3. Odor and weather monitoring.
    - a. Describe the facility's plan to monitor odor, including frequency of odor assessment and methods to detect potential odors originating from the facility.
    - b. Describe the facility's plans to monitor weather, including data collection frequency and parameters planned to be monitored. Such parameters may include precipitation, temperature, and wind speed and direction obtained from the nearest local weather station.
  4. Description of how Odor complaints will be addressed including responsibilities, verification and mitigation process.
  5. The Odor Management Plan may be part of the Binding Agreement by reference.
- b) Compliance Requirements for the Facility.
1. Compliance requirements are anticipated to be based on the information submitted in Section 1 above.
  2. This may include odor emission stack testing, where available, and fence line monitoring.
- c) Associated enforcement cost, fines for noncompliance and enforcement steps for repeated violations will be identified in the agreement.
1. These cost / fines may include:

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- a. Fees associated with the odor complaints tracking and verification (if applicable).
- b. Compliance testing (if applicable).
- c. Fines for noncompliance.
- d. Any other anticipated associated cost to the City.

2. If the operator fails to mitigate the odor as required by the agreement and/or is not being responsive, the City may initiate procedures to suspend or withdraw the approval of the Binding agreement and the facility will be required to shut down.

d) A copy of the approved operating permit application from NDEQ If a composting facility is exempt or partially exempt from NDEQ Title 132 requirements, the facility's Operational Plan as described in Section 3.b above is required.

F. The concurring vote of two-thirds (2/3) of the City Council shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this Article.

**§11-231 SEPARABILITY CLAUSE.** Should any section or provision of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.



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